

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

David Laurence Hodges,

No. 0:20-cv-00090-WMW-KMM

Plaintiff,

v.

ORDER

State of Minnesota Department of
Corrections, et al.

Defendant.

This matter is before the Court to resolve the remaining disagreements between David Laurence Hodges and the State of Minnesota Department of Corrections (“DOC”) regarding phone contact between Mr. Hodges and his counsel during this litigation. Mr. Hodges originally filed a motion to compel greater telephonic communication between himself and his counsel than was being permitted, and the Court entered an Order granting in part and denying in part his requests. The Court instructed counsel for the DOC and Mr. Hodges to meet and confer regarding a potentially agreed upon approach to such phone contact for the purposes of this litigation. The parties updated by the Court by e-mail of their respective proposals, including areas of agreement and disagreement. The Court appreciated the progress made by both sides and held a telephonic hearing on May 1, 2020 to resolve the remaining minor matters in dispute. During the hearing, the Court issued its rulings from the bench, which are memorialized in this written Order.

As explained during the hearing, the Court expressly declined to make any ruling concerning the constitutionality of the DOC’s policies regarding phone contact generally. Nor does the Court intend its rulings to be taken as precedent for other litigation in which the DOC or

plaintiff's counsel are involved. The lines drawn by the Court herein are established solely to strike a balance between Mr. Hodges's legitimate constitutional interest in having meaningful access to his lawyer, the DOC's need to manage a facility that houses a large number of inmates, the current reality created by the COVID-19 pandemic and its impact upon the institution where Mr. Hodges is confined, the pragmatic needs of ensuring this case is resolved on its merits and in as expeditious a manner as possible, and the unique circumstances presented by this litigation. If future disputes arise, the Court encourages counsel for the DOC and Mr. Hodges to continue to work together cooperatively to resolve as much as possible without the need for the Court's further intervention. Accordingly, **IT IS HEREBY ORDERED THAT:**

1. During the period of this litigation when, due to the COVID-19 pandemic, the DOC is preventing in-person visits to the Moose Lake facility where Mr. Hodges is incarcerated, the DOC shall permit Mr. Hodges and his counsel two 30-minute phone calls every calendar month. Counsel for Mr. Hodges shall schedule such calls by contacting Mr. Hodges's case manager by e-mail or telephone 7 days prior to the call.

2. Once the DOC has removed the COVID-19-related restrictions on in-person visits to the Moose Lake facility where Mr. Hodges is incarcerated, the DOC shall allow Mr. Hodges and his counsel to have phone conferences within two weeks of a deadline.

Date: May 1, 2020

s/Katherine Menendez
Katherine Menendez
United States Magistrate Judge